IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.31376 of 1997

Between:

Nadimpalli Appala Raju, S/o Rajam Raju, resident of D.No.11-36, Palakoderu village and Mandal, West Godavari District.

..... PETITIONER

AND

1. The Regional Transport Officer and Asst. Secretary, Regional Transport Authority, West Godavari District, at Bhimavaram.
2. The Transport Commissioner, Andhra Pradesh, Hyderabad.
3. The Joint Transport Commissioner and Secretary, State Transport Authority, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction declaring the action of the 1st respondent in not permitting the petitioner to alter the seating capacity of the Vehicle of the petitioner bearing Registration No.AP-37/H.9000 as a Motor Cab as illegal, arbitrary, contrary to law and further direct the 1st respondent topermit the petitioner to operate the said Vehicle as a Motor Cab with a seating capacity of '7' in all by altering the seating capacity from 10 in all to '7' in all in the Registration Certificate of the said Vehicle, while directing the 3rd respondent to issue an All India Tourist permit to the said Vehicle.

Counsel for the Petitioner: MR. E.MARUTHI RAJA

Counsel for the Respondents: GP for Transport

The Court made the following:

ORDER:

By this writ petition, the petitioner seeks to declare the action of the first respondent in not permitting him to alter the seating capacity of his Vehicle bearing Registration No.AP-37/H.9000 as a Motor Cab as illegal and arbitrary and to direct the first respondent to permit him to operate the said Vehicle as a Motor Cab with a seating capacity of '7' in all by altering the seating capacity from '10' in all to '7' in all in the Registration Certificate of the said Vehicle.

It is submitted by the learned Government Pleader for Transport and admitted to by the learned counsel for the petitioner that the subject matter of this writ petition is squarely covered by a Division Bench judgment of this Court in **O. Gangadhar v. Transport Commissioner, A.P.**, wherein it was held as follows:

> "….As could be seen from the scheme of the Act and the Rules made thereunder in a given case, the Transport Authorities while granting stage carriage or contract carriage permits, keeping in view the route of journey viz., hill stations, fair weather routes etc., a condition may be imposed in the permit to carry certain maximum number of passengers. Merely because the form of permit is provided with a column of 'number of passengers seats', it cannot be said that the owners of the vehicles have a right to get the alteration of seating capacity by removing some seats…."

Following the above judgment, this writ petition is also dismissed for the same and similar reasons. No costs.

N.V. RAMANA, J

Date: 15-03-2005

Nsr

To

1. The Regional Transport Officer and Asst. Secretary, Regional Transport Authority, West Godavari District, at Bhimavaram.

2. The Transport Commissioner, Andhra Pradesh, Hyderabad.

3. The Joint Transport Commissioner and Secretary, State Transport Authority, Andhra Pradesh, Hyderabad.

4. Two CCs to GP for Transport, High Court Buildings, Hyderabad (OUT)

5. Two CD copies

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